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Message Text

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ACTION ARA-14

INFO OCT-01 EUR-12 ISO-00 SSO-00 CIAE-00 DODE-00
NSAE-00 NSCE-00 USIE-00 INRE-00 PM-05 H-01 INR-07
L-03 PA-01 PRS-01 SP-02 SS-15 IO-13 /075 W
----------036577 262214Z /75
O 262100Z JAN 78
FM AMEMBASSY SANTIAGO
TO SECSTATE WASHDC IMMEDIATE 7958
INFO AMEMBASSY ASUNCION
AMEMBASSY BRASILIA
AMEMBASSY BUENOS AIRES IMMEDIATE
AMEMBASSY LIMA
AMEMBASSY MONTEVIDEO
AMEMBASSY LONDON

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E.O. 11652: N/A
TAGS: PBOR PGOV AR CI
SUBJECT: BEAGLE CHANNEL: CHILE REJECTS ARGENTINA'S "REJECTION"

REF: BUENOS IRES 0628 (NOTAL)

1. SUMMARY: CHILEAN OFFICIAL AND PUBLIC OPINION ARE UNANIMOUS IN CONDEMNING THE ARGENTINE ACTION IN "REJECTING" THE BEAGLE CHANNEL ARBITRAL AWARD. THE ARGENTINE POSITION IS VIEWED AS A LEGAL IMPOSSIBILITY, AND THUS AS NULL AS THE ARGENTINES DECLARE THE AWARD TO BE. THE HOPE, IF NOT NOW A CLEAR EXPECTATION, IS THAT THE GOA WILL GET ITS INTERNAL POLITICAS IN ORDER AND MOVE TO A SETTLEMENT THAT DE FACTO RECOGNIZES THE DECISIONS REACHED BY THE ARBITRAL TRIBUNAL -- IN THE CONTEXT OF A COMPROMISE ON TERRITORIAL SEA BOUNDARIES. THE WORLD COMMUNITY, AS WELL AS CHILE AND ARGENTINA, ARE LOSERS AS A RESULT OF THE IMPASSE AND DENOUEMENT TO WHICH THE BEAGLE CHNNEL ISSUE HAS COME. END SUMMARY.
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2. GOC OFFICIAL DECLARATION. THE FOREIGN MINISTRY ISSUED AN OFFICIAL STATEMENT JANUARY 26 MAKING THE FOLLOWING MAJOR POINTS:

-- THE BEAGLE CHANNEL ARBITRAL AWARD WAS MADE IN STRICT ACCORDANCE WITH THE TERMS OF THE CHILE/ARGENTINA GENERAL

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TREATY OF ARBITRATION OF 1902 AND THE ARBITRATION ARGREEMENT OF 1971.

-- THE ARBITRAL PROCESS WAS CARRIED OUT WITH FULL PARTICIPATION OF BOTH COUNTRIES AND IN A MANNER GUARANTEEING IMPARTIALITY AND CORRECTNESS, AND THE TRIBUNAL LIMITED ITSELF EXCLUSIVELY TO THE ISSUE SUBMITTED BY THE PARTIES.

-- THE ARBITRAL DECISION WAS LEGALLY BINDING FROM THE MOMENT OF ITS NOTIFICATION TO THE PARTIES (MAY 2, 1977) AND, FURTHERMORE, IS UNAPPEALABLE AND THE PARTIES ARE HONOR BOUND TO CARRY IT OUT.

-- IT FOLLOWS THAT A UNILATERAL DECLARATION DECLARING THE AWARD NULL IS CONTRARY TO INTERNATIONAL LAW AND TO THE TREATIES BETWEEN CHILE AND ARGENTINA.

-- CONSEQUENTLY, THE ARGENTINE DECLARATION HAS NO JURIDICAL EFFECT ON THE ARBITRAL AWARD, WHICH CONTINUES VALID AND OBLIGATORY.

-- THE GOVERNMENT OF CHILE REASSERTS ALL THE RIGHTS ACCORDED IT BY THE TREATIES AND OTHER TITLES IN QUESTION AND WHICH HAVE BEEN JURIDICALLY CONFIRMED BY THE ARBITRAL AWARD. AT THE SAME TIME IT RESERVES ITS RIGHTS WITH RESPECT TO ACTIONS IT MIGHT TAKE AT THE APPROPRIATE TIME IN LIMITED OFFICIAL USE

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INTERNATIONAL FORUMS.

-- THE GOVERNMENT OF CHILE HAS TODAY PRESENTED TO THE ARGENTINE REPUBLIC A NOTE REJECTING THE ARGENTINE DECLARATION (OF JANUARY 25).

-- THE GOVERNMENT OF CHILE REITERATES ITS PERMANENT ADHERENCE TO JURIDICAL NORMS, TO THE PACIFIC SOLUTION OF INTERNATIONAL DISPUTES, AND TO RESPECT FOR EXISTING TREATIES.

3. THE FOREIGN MINISTRY ALSO MADE PUBLIC THE TEXT OF A NOTE TO THE ARGENTINE AMBASSADOR IN SANTIAGO, REPLYING TO THE GOA'S NOTE OF JANUARY 25 TO THE CHILEAN AMBASSADOR IN BUENOS AIRES, NOTIFYING THE GOC OF ITS REJECTION OF THE BEAGLE DECISION. IN THE NOTE THE GOC TOTALLY REJECTS THE GOA'S UNPRECEDENTED "NULLIFYING DECLARATION" AND ASSERTS ITS RIGHTS AND SOVEREIGNTY IN THE DISPUTED AREA. THE GOC WOULD LIKE TO BELIEVE IN THE GOOD INTENTIONS OF THE GOA IN SUGGESTING THAT THE PROBLEM CONTINUE TO BE DISCUSSED BILATERALLY, BUT MUST EMPHASIZE THAT SUCH DIRECT NEGOTIATIONS CAN IN NO WAY REOPEN QUESTIONS ALREADY DECIDED IN THE

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ARBITRAL AWARD. IF IT HAS NOT BEEN POSSIBLE TO ARRIVE AT
AGREEMENT UP TILL NOW, THIS IS IN GOOD PART THE RESULT OF

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ACTION ARA-14

INFO OCT-01 EUR-12 ISO-00 SSO-00 CIAE-00 DODE-00
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THE PERSISTENT INTIMATIONS ON THE PART OF THE GOA THAT IT
MIGHT REJECT THE ARBITRAL AWARD. FINALLY, AND NOT EXCLUD-
ING THE POSSIBILITY OF CONTINUED DIRECT NEGOTIATIONS, THE
GOC NOTE REPEATS THE PREVIOUS CHILEAN PROPOSAL TO SUBMIT
THE MATTER TO THE INTERNATIONAL COURT OF JUSTICE.

4. PRESS REACTION. THAT THE ARGENTINES WERE GOING TO RE-
JECT THE BEAGLE AWARD HAS BEEN PUBLIC KNOWLEDGE FOR SOME
TIME. EVEN THE MEETING OF THE TWO PRESIDENTS JANUARY 19
DID NOT APPRECIABLY RAISE HOPES OF A TIMELY SOLUTION. THUS
THE TONE OF PRESS REACTION THIS MORNING IS ONE OF CALCULATED
AND GENERALLY RESTRAINED OUTRAGE. ONLY "EL MERCURIO" GOES
ALL OUT, DEVOTING THE ENTIRE FIRST PAGE (UNDER A BANNER
HEADLINE AND A PANORAMIC PHOTO OF PICTON, NUEVA AND
LENNOX ISLANDS) TO THE BEAGLE PROBLEM. SOMEWHAT DISINGENU-
OUSLY ITS EDITORIAL IS ENTITLED "THE SURPRISING CONDUCT OF
THE ARGENTINE GOVERNMENT." WHILE ECHOING THE FORMAL POSI-
TION OF THE GOC IT EXPRESSES DISMAY THAT MEN OF HONOR
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(I.E., THE ARGENTINE MILITARY AND ARGENTINE JURISTS) WOULD
TAKE A STEP SO CONTRARY TO INTERNATIONAL LAW AND THE
CIVILIZED CONDUCT OF NATIONS. IT SUGGESTS THAT THIS MUST
BE THE FIRST TIME IN HISTORY THAT ONE PARTY TO A DISPUTE
HAS UNILATERALLY DECLARED A BINDING ARBITRATION AWARD NULL. GOC-
OWNED "EL CRONISTA" GIVES THE STORY LEAD TREATMENT BUT DOES NOT
COMMENT EDITORIALLY. LARGEST CIRCULATION "LA TERCERA" HAS THE
STORY ON PAGE TWO AND ALSO HAS NO EDITORIAL COMMENT.

5. NOT WANTING TO BE SEEN LAGGING ON A MATTER OF NATIONAL
HONOR, THE CHRISTIAN DEMOCRATS ISSUED A STATEMENT JANUARY 23
VOICING STRONG AND TOTAL SUPPORT FOR "PERMANENT CHILEAN INTERESTS
THAT COME BEFORE OUR OPINION WITH RESPECT TO GOVERNMENTS, WHICH
ARE TRANSITORY."

6. WHAT NEXT? THE PRESS HERE REPORTS THAT THE UNIDENTIFIED
GOC EMISSARY TO BUENOS AIRES (REFTEL) WAS ARMY GENERAL
AGUSTIN TORO DAVILA, CURRENTLY RECTOR OF THE UNIVERSITY OF
CHILE. REPORTEDLY HE CONVEYED TO THE GOA THE CHILEAN DE-
SIRE TO POSTPONE A SECOND VIDELA/PINOCHET MEETING. THE
SUPPOSITION HERE IS THAT THE GOC DID NOT WANT TO APPEAR
TO BE RUSHING INTO A SECOND MEETING IMMEDIATELY FOLLOWING
THE ARGENTINE REJECTION OF THE ARBITRAL AWARD. THERE IS
SPECULATION THAT THE MEETING MAY NOW BE HELD THE SECOND
WEEK OF FEBRUARY, WITH LA SERENA, 300 MILES NORTH OF
SANTIAGO, THE POSSIBLE SITE.

7. COMMENT: CLIENTISM ASIDE, IT SEEMS CLEAR FROM THIS
VANTAGE POINT THAT THE GOC WON THE BEAGLE CHANNEL ARBITRAL
DECISION FAIR AND SQUARE, AND THAT THE ARGENTINES ARE ON
EXCEEDINGLY SHAKY GROUND, IF INDEED ANY, FOR THEIR ACTION
IN DECLARING THE BINDING AWARD NULL. MORE CHARITABLY, HOWEVER, IT
IS TRUE THAT THE SIGNIFICANCE OF THE LAND AND WATERS IN
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DISPUTE HAS CHANGED GREATLY DURING THE NEAR-CENTRY SINCE
THE TREATY OF 1881. INSTEAD OF 3 MILES TERRITORIAL SEAS
NOW EXTEND 200. MINERAL WEALTH FROM THE SEA WAS THEN ONLY
DREAMED OF. THE RELATIONSHIP OF THE SOUTHERN REGIONS TO
ANTARCTIC ASPIRATIONS WAS NOT THEN AN ISSUE. NEVERTHELESS
ARGENTINA WENT INTO THE ARBITRAL PROCESS VOLUNTARILY AND
IN FULL KNOWLEDGE THAT THE RESULTS WOULD BE BINDING
BY DECLARING "NULL" A BINDING ARBITRATION, AN ACT FOR WHICH LOCAL
SCHOLARS AT LEAST CAN FIND NO PRECEDENT, A BLOW TO PEACEFUL
RESOLUTION OF INTERNATIONAL DISPUTES.

8. THE BASIC ISSUE REMAINS THE DIVISION OF TERRITORIAL

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SEAS BETWEEN THE TWO COUNTRIES IN THE AREA EAST, SOUTH AND WEST OF THE THREE ISLANDS OF NUEVA, PICTON AND LENNOX (AND OF COURSE THE ROCKS AND ISLETS CONTAINED THEREIN). THERE IS ENOUGH EVIDENCE FROM VARIOUS SOURCES TO INDICATE THAT BOTH COUNTRIES ARE WILLING TO COMPROMISE FROM THEIR EXTREME POSITIONS. BUT THE GOA IS CONSTRAINED BY INTERNAL POLITICAL PROBLEMS AND THE GOC ANNOT APPEAR TO BE GIVING AWAY TOO MUCH OF WHAT IT CAN REASONABLY CLAIM AS THE RESULT OF THE ARBITRAL DECISION. WHETHER A SUCCESSFUL NEGOTIATION IS POSSIBLE ANY TIME IN THE NEAR FUTURE IS DUBIOUS.
THE GOA'S ACTION IN "REJECTING" THE ARBITRAL AWARD, WHILE PERHAPS VIEWED AS NECESSARY TO PRESERVE ITS BARGAINING POSITION, DID NOT HELP.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: BEAGLE CHANNEL, BOUNDARY CLAIMS
Control Number: n/a
Copy: SINGLE
Draft Date: 26 jan 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978SANTIA00600
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780039-0682
Format: TEL
From: SANTIAGO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780119/aaaaapup.tel
Line Count: 238
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 643809e0-c288-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 BUENOS AIRES 628
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3708180
Secure: OPEN
Status: NATIVE
Subject: BEAGLE CHANNEL: CHILE REJECTS ARGENTINA\'S \"REJECTION\"
TAGS: PBOR, PGOV, AR, CI
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/643809e0-c288-dd11-92da-001cc4696bcc
Review Markings:
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